

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SEAN PATRICK DOYLE,

No. C 12-2769 YGR (PR)

Plaintiff,

**ORDER SETTING NEW BRIEFING  
SCHEDULE**

v.

CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND REHABILITATION,  
et al.,

Defendants.

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This is a civil rights action brought by a *pro se* prisoner pursuant to 42 U.S.C. § 1983. One of the named Defendants, Damon T. Hininger, has filed a motion to dismiss pursuant to Rule 12(b) of the Federal Rules of Civil Procedure, on the ground that Plaintiff has not exhausted his administrative remedies. Before the Court is Plaintiff's motion for a sixty-day extension of time to file his opposition to Defendant Hininger's motion to dismiss.

The Ninth Circuit requires that *pro se* prisoner-plaintiffs be given "notice of what is required of them in order to oppose" motions to dismiss at the time of filing of the motions, rather than when the district court orders service of process or otherwise before the motions are filed. *Woods v. Carey*, 684 F.3d 934, 935, 940-41 (9th Cir. 2012). Defendant Hininger did not initially give such a notice to Plaintiff at the time of filing his motion to dismiss. However, Defendant Hininger has since done so. (Docket No. 39.)

Plaintiff's opposition to Defendant Hininger's motion to dismiss is due May 28, 2013. As mentioned above, Plaintiff requests a sixty-day extension of time to file his opposition. The Court finds that only a twenty-eight-day extension is warranted; therefore, his request (docket no. 36) is GRANTED in part and DENIED in part. In order to allow Plaintiff time to prepare his opposition to the pending motion to dismiss taking into account this *Wyatt* dismissal for non-exhaustion notice, the Court now sets the following new briefing schedule on Defendant Hininger's motion to dismiss: Plaintiff must file and serve his opposition to the motion no later than **June 25, 2013**. Defendant

Hininger shall file and serve a reply no later than **July 23, 2013**. **No further extensions of time will be granted in this case absent extraordinary circumstances.**

This Order terminates Docket No. 36.

IT IS SO ORDERED.

DATED: May 7, 2013

  
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE